

Mathis Electric Co., Inc. and Local Union 342, of the International Brotherhood of Electrical Workers, AFL-CIO, affiliated with International Brotherhood of Electrical Workers, AFL-CIO. Cases 11-CA-15447, 11-CA-15447-2, and 11-CA-15447-3

July 8, 1994

DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS STEPHENS
AND DEVANEY

On January 7, 1994, Administrative Law Judge William N. Cates issued the attached decision. The Respondent filed exceptions and a supporting brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and brief and has decided to affirm the judge's rulings, findings,¹ and conclusions and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Mathis Electric Co., North Wilkesboro, North Carolina, its officers, agents, successors, and assigns, shall take the action set forth in the Order.

¹ The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enf'd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the findings.

The Respondent does not except to the judge's findings that it violated Sec. 8(a)(1) by interrogating employees about their union activities, implementing job quotas, and threatening employees with arrest, discharge, jobsite closure, and more onerous working conditions. The Respondent also does not except to the judge's finding that it violated Sec. 8(a)(3) and (1) by assigning an employee more onerous working conditions and thereafter discharging him for engaging in a strike.

Donald R. Gattalaro, Esq., for the General Counsel.
Guy F. Driver, Esq. (Womble, Carlyle, Sandridge & Rice),
of Winston-Salem, North Carolina, for the Company.
Gary M. Maurice, of Winston-Salem, North Carolina, for the
Charging Party.

DECISION

STATEMENT OF THE CASE

WILLIAM N. CATES, Administrative Law Judge. I heard these cases in trial in Winston-Salem, North Carolina, on No-

vember 4 and 5, 1993.¹ The cases arose when Local Union 342, of the International Brotherhood of Electrical Workers, AFL-CIO, affiliated with International Brotherhood of Electrical Workers, AFL-CIO (Union) filed charges against Mathis Electric Co., Inc. (Company) on May 17, in Case 11-CA-15547, on May 18 in Case 11-CA-15547-2, and on May 19 in Case 11-CA-15547-3.² After investigating the charges, the Regional Director for Region 11 of the National Labor Relations Board (Board) issued a complaint and notice of hearing (complaint) on July 1. The complaint alleges that the Company on May 6, 7, and 8 assigned more onerous working conditions to and, thereafter on May 14, discharged its employee Kim Farley (Farley) because of his union activities thereby violating Section 8(a)(3) and (1) of the National Labor Relations Act (Act). It is also alleged the Company, on or about May 17, refused to hire, and continues to refuse to hire, Gary M. Maurice because of his union activities, thereby violating Section 8(a)(3) and (1) of the Act. It is further alleged that on specified dates in April and May, specifically named company supervisors and/or agents interrogated employees concerning their union activities and desires, threatened employees with jobsite closure and discharge, more onerous working conditions, and unspecified reprisals because of their union activities, implemented job quotas and threatened employees with arrest to discourage their union activities. All the above is alleged to have tended to interfere with, restrain, and coerce employees in the exercise of their rights guaranteed by Section 7 of the Act thereby violating Section 8(a)(1) of the Act.

The Company admits its operations are in and affect commerce and that the Board's jurisdiction is properly invoked and that the Union is a labor organization within the meaning of the Act. The Company denies all alleged wrongdoings. Counsel for the General Counsel (Government) contends, but the Company denies, that Office Manager/Trainee Renee Mathis (R. Mathis) is an agent of the Company within the meaning of Section 2(13) of the Act.

All parties were afforded an opportunity to call, examine, and cross-examine witnesses and to present relevant evidence. I have considered the entire record, including briefs filed by the Government and Company. I carefully observed the demeanor of the witnesses as they testified. Based on the above and more particularly on the findings and reasonings set forth below, I find the Company violated the Act essentially as outlined in the complaint.

FINDINGS OF FACT

I. JURISDICTION

The Company is a North Carolina corporation with a facility located at North Wilkesboro, North Carolina, from which it is engaged in the business of electrical contracting at various locations including the Lowes Superstore site in Greensboro, North Carolina. During the 12 months preceding issuance of the complaint herein, a representative period, the Company performed electrical services for customers outside the State of North Carolina, valued in excess of \$50,000. It is alleged in the complaint, the parties admit, the evidence establishes, and I find, the Company is an employer engaged

¹ All dates hereinafter are in 1993 unless I indicate otherwise.

² The charge in Case 11-CA-15547-3 was amended on June 30.

in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

II. LABOR ORGANIZATION STATUS

It is alleged in the complaint, the parties admit, the evidence establishes, and I find, the Union is a labor organization within the meaning of Section 2(5) of the Act.

III. THE FACTS

A. Kim Farley's Employment

Farley, a journeyman electrician and 7-year union member, said he needed work in May because his unemployment benefits were running out. Union Business Manager Gary Maurice (Union Business Manager Maurice) referred Farley to the Company.³ On April 14, Farley was hired by Foreman Michael Griffin (Foreman Griffin) as an electrician at the Company's Lowes Superstore site in Greensboro, North Carolina.

Farley said he first discussed the Union with fellow electricians Steve Capps and Mike Canter in the parking lot at the worksite after work on April 19. According to Farley, Capps was concerned that any work after 8 hours per day should be at time-and-a-half pay. Farley told Capps it could be if they joined a union and asked if they knew anything about the Union herein.

Farley spoke with those same two electricians and electrician Ralph Rhodes the next day (April 20) at their evening break. Farley stated that as they talked, Foreman Griffin joined in and "jumped over in front" of him and stated, "Well, tell me all about it, Kim." Farley asked "What" and Foreman Griffin replied "The Union" and added he was "serious," and then asked "You're in it, right?" Farley told Foreman Griffin he was and Griffin again wanted to know all about the Union. Farley explained the benefits of being union such as "insurance," "retirement," "better working conditions," and the "brotherhood amongst the members." Foreman Griffin asked how the insurance worked and Farley explained it to him. Foreman Griffin told the group "it sounded good," but it would not work because the Company "would get rid of everyone of us and then where would we work." Farley said he told Foreman Griffin and the others that if the Company was union, the employees could sign an out-of-work book and when the Company had work at other jobsites in the union's jurisdiction, the employees could go back to work for the Company "without begging for a decent wage and retirement and all for [their] families." According to Farley, Foreman Griffin responded:

No, it wouldn't work [President] Roger Mathis would get rid of all of us. He had it fixed so that the equipment was rented and he'd sell the tools and materials and he'd go out of business and he said he meant it, to.

³Farley stated there was an understanding between him and Maurice that part of his mission at the Company was to get the other employees to become union members. Farley described this type employment as "salting" a project. Farley said the concept of "salting" was "hiring into a non-union shop to organize and educate employees . . . about the benefits . . . the Union [had] to offer."

The conversation ended with Foreman Griffin telling the employees to go back to work.

On April 21, Farley told Foreman Griffin that Union Business Manager Maurice would be coming to the jobsite that Friday and would bring literature on the Union. Farley said Foreman Griffin wasn't any longer interested in the Union and he asked why the sudden change that he had been interested the day before. According to Farley, Griffin said, "Well, you know, Mathis was a small outfit, they would never go union." Griffin told Farley the Company only had approximately 40 employees including the 9 that worked at the Lowes Superstore site. Farley explained to Foreman Griffin it only took a 30-percent showing of interest with signed union authorization cards for the employees to get a Board-conducted election where they voted "behind closed curtains" on whether they wanted the Union to represent them.

Farley testified that on April 22, he and fellow electrician Rhodes were assigned to install "rows of lights" at the construction site. Farley stated Foreman Griffin approached the work area and asked how many rows he [Farley] had installed. Farley told Griffin he didn't know, that he had not been counting, maybe three rows. According to Farley, Foreman Griffin asked Rhodes how many he had completed, and Rhodes told him five rows. Griffin walked away at that point.

Farley stated he approached Foreman Griffin the next day (April 23), and asked what he meant by how many rows of lights he had installed. Foreman Griffin told Farley he had placed electrician Rhodes alongside him to see how many rows he installed and added Rhodes had told him that he (Rhodes) had done twice as many rows as Farley. Farley told Foreman Griffin "I thought you said it wasn't going to be no problem with me working here, me being the Union." According to Farley, Foreman Griffin just shook his head and asked if he had been doing a good job. Farley said he had never been asked to do any certain number of lights (or anything else) prior to this occasion.

On April 27, Farley was assigned to install canopy lights along walkways at the front of Lowes Superstore. According to Farley, Foreman Griffin told him he should be able to install 20 lights a day on the canopy. Farley promised to do his best. Farley stated Foreman Griffin's attitude toward him had changed.

On May 6, Farley was assigned to "rough in" an office inside the building but after obtaining the needed materials was advised by an apprentice that Foreman Griffin needed someone with a "weak mind" and a "strong back" and had sent for Farley. Farley was then assigned by Foreman Griffin to clean ditches behind a "ditch witch"⁴ in the parking lot. Farley said this type of work was normally performed by either an apprentice or a laborer. The next 2 days (May 7 and 8), Farley was assigned to outside work operating a "tamp" hammer.⁵

Electrician Charles Adams (Adams) testified that in May he heard Foreman Griffin refer to Farley as "union," "his

⁴Farley described a "ditch witch" as a tractor equipped with blades for cutting trenches in the soil into which conduit could be placed.

⁵Farley described a tamp hammer as being similar to a jack hammer except it was utilized to tamp soil. Farley said he utilized the tamp hammer to tamp soil onto conduit that had been placed in trenches opened up by the "ditch witch."

bull,” and “his union man.” Adams stated that when Farley was assigned to do outside work, Foreman Griffin stated “he had Union sweating like a bull.” Adams also stated that on May 13, while he was in the blueprint room, Foreman Griffin asked him if Farley had been talking union and who had signed authorization cards. Adams said that before he could answer, Foreman Griffin stated “he didn’t need any of this, that he could fire everybody on the job and replace them.”

On May 13, at the morning break, Farley said he talked with the employees because there had been complaints about “paychecks,” “no water on the job,” and operating lifts unsafely. Farley passed out union authorization cards to each of the employees and told them if they signed the cards, it would be “a start” toward change and could afford the Union an opportunity to represent and bargain for them on “wages, insurance, retirement, and so forth.” Farley explained to the employees they only needed 30 percent of the approximately 40 employees, to sign cards in order to get an election to decide if they wanted the Union to represent them. Farley stated all the employees at the Lowes Superstore site (except Rhodes) signed cards and returned them to him. According to Farley, Foreman Griffin observed the meeting and approached asking the group “What’s this, a Union meeting?” Farley told him, no, that he was just talking to the men.

Farley met with Union Business Manager Maurice at noon that same day (May 13). Farley told Maurice he was “fed up” with the treatment he was subjected to by the Company and he was going to go on a unfair labor practice (ULP) strike against the Company.

Union Business Manager Maurice suggested that Farley wait until later that afternoon so he could properly notify Foreman Griffin and ensure the other employees knew how to contact the Union if they needed assistance. Maurice told Farley that when he was ready to start a ULP strike to first come by the union hall.

Later that afternoon (May 13), Union Business Manager Maurice prepared the following letter which he deposited in the mail at 4:30 p.m. on May 14:

May 13, 1993
Mr. M. Roger Mathis
Mr. Mike Griffin
Mathis Electric Co., Inc.
Rt. 3, Box 400
P. O. Box 546
N. Wilkesboro, N.C. 28659

Dear Sirs:

Please be advised that the following employees, Kim A. Farley, Richard E. Brooks, and Gary M. Maurice, are on Unfair Labor Practice Strike in protest of the Unfair Labor Practices of your company. Though we are not actively picketing on an everyday basis, we remain on Strike.

Respectfully yours,
/s/ Gary M. Maurice
Gary M. Maurice
Business Manager
Local Union 342, IBEW

At approximately 3:30 p.m., May 13, Farley notified Foreman Griffin “we were putting this job on a Unfair Labor

Practice strike” and that he “had nothing further to say to him until further notice.” Foreman Griffin asked what a ULP strike was.⁶ Farley testified he told Foreman Griffin:

I told him I didn’t have nothing further to say to him until further notice and I then proceeded to each of the men and handed them one of Gary’s [Union Business Manager Maurice’s] business cards and told them I was leaving the job on an Unfair Labor Practice strike to try to change things and make them a little better for us. Anything to their disliking because of them possibly affiliated with this, to contact Gary [Union Business Manager Maurice] at this number and we’d do what we could.

On May 14, at around noon, Farley and fellow union members David London and Doug Williams established a picket line in front of the Company’s Lowes Superstore site. Farley testified Foreman Griffin and electrician Rhodes drove to where they were in a company truck and asked what they were doing. Farley told Griffin just what the sign said that they were on strike.⁷ Foreman Griffin handed Farley his paycheck and stated “you don’t work here anymore.”⁸ Farley told Griffin he did and Griffin responded, “No, your ass is fired and if you put one foot on this property, I’ll have you arrested.”

Union Business Manager Maurice testified he recruited the two union members that helped Farley picket. Maurice testified he prepared a second letter to the Company on Friday, May 14.⁹ That letter reads:

May 14, 1993
4:30 P.M.
Mr. M. Roger Mathis
Mr. Mike Griffin
Mathis Electric Company, Inc.
Rt. 3, Box 400
P. O. Box 546
N. Wilkesboro, N.C. 28659

Dear Sirs:

Please be advised that the following employees, Kim A. Farley, Richard E. Brooks, and Gary M. Maurice, have effective this 14th day of May, 1993 at 4:30 P.M. ended their Unfair Labor Practice Strike and agree to return to work unconditionally.

Respectively yours,
/s/ Gary M. Maurice
Gary M. Maurice
Business Manager

⁶Employee Samuel Johnson testified he heard Farley tell Foreman Griffin he was going on a ULP strike and Griffin asking what a ULP strike was.

⁷London testified Foreman Griffin came to the picket line, handed Farley his check, and asked what was happening to which Farley said they were on an unfair labor practice strike.

⁸Employee Johnson testified he observed Foreman Griffin handing Farley his paycheck and heard Griffin tell Farley he no longer worked for the Company.

⁹Maurice explained he placed the letter in his rural mailbox on May 14; however, it was not picked up by the rural postman until Monday, May 17. The Postal Service return receipt reflects this second letter was received by the Company on May 20.

Local Union 342, IBEW

Electrician Samuel Johnson testified Foreman Griffin was angry about the picket line and after lunch asked him electrician Charles Adams if they wanted to join Farley on the picket line. Johnson told Griffin they did not that they had come to work. Electrician Adams testified Foreman Griffin asked and him if he had ever seen anything like this before. Adams told Griffin he didn't know. Griffin stated he didn't know if Farley had quit or if he was fired and added Farley would never work for him on any of his jobs again. According to Adams, Foreman Griffin "stated in loud, angry tones that if anybody else wanted to go out and join them, they were welcomed to . . . that Lowes would bring in their attorneys and have all of them put in jail."

B. Union Business Manager Gary Maurice

Union Business Manager Maurice testified that in addition to his other actions alluded to above, he and electrician Richard Brooks¹⁰ applied for employment with the Company at the jobsite on May 13 at approximately 11:30 a.m. Union Business Manager Maurice told Foreman Griffin they were looking for work as electricians and would like to fill out applications. Griffin told them the job was "close to finishing" and he didn't think he needed anyone. Maurice told Griffin the Company was listed with the North Carolina Employment Security Commission and they would like very much to fill out an application even if the Company didn't need anyone at that time. Foreman Griffin then told them to "hang loose" and he would "get right back with an application." After Griffin returned, the three of them walked across the building toward Griffin's truck and on the way Griffin asked about their work experience. Maurice told Griffin he had an unlimited state contractor's license with 20 years' experience and Brooks had 28 years of experience. Foreman Griffin told them with a chuckle, "You all are over-qualified." Maurice said he had never heard that before. Foreman Griffin gave the two of them blank applications from his truck, told them to fill them out, and to place them back in his truck.¹¹ Maurice said they did as instructed.

As noted elsewhere in this decision, Union Business Manager Maurice spoke with Farley on this same occasion and then left the jobsite.

Union Business Manager Maurice stated that at approximately 9 a.m. on May 17, he received a telephone call from a "Mike" who stated he was with the Company at its Lowes Superstore site. The caller told Maurice that he (Maurice) had applied for work with the Company the week before and asked if he was still interested. Maurice told the caller he was, and the caller told him they had 2 or 3 weeks' work (with some long hours) left and they needed him immediately. Maurice asked how soon and the caller told him to report at 7 a.m. the next day. The caller asked about electrician Brooks and Maurice told the caller he was sure Brooks was still interested and offered to contact Brooks.

¹⁰ Brooks testified he had been referred to the Company by the North Carolina Employment Security Commission.

¹¹ Maurice said he noted on his application he was the business manager for the Union. Maurice acknowledged part of his objective in seeking employment at the Company was to "salt" the workplace.

The caller said he would contact Brooks. Maurice then asked "this is Mike Griffin with Mathis Electric Company out of North Wilkesboro." The caller said he was. Union Business Manager Maurice told Griffin he was glad he had called because he had written Griffin a letter on behalf of Farley ending the unfair labor practice strike against the Company and agreeing to return to work. Maurice asked Griffin if he would like for him to bring Farley along. Maurice said "there was a long silence" and then Griffin finally asked if he was associated with "this Kim Farley?" Maurice said he was and noted he had reflected on his application that he was the business manager for the Union in that area. According to Maurice, Foreman Griffin said something to the effect "this won't work." Maurice responded saying you don't want Farley in the morning. Griffin said "no, let's forget this conversation ever took place or ever happened," that he didn't need any trouble. Maurice told Foreman Griffin there would not be any trouble, that they were going to continue to organize the Company but would do so only before or after work or during breaktimes. Maurice assured Foreman Griffin they would do the work that needed to be done. Foreman Griffin told Union Business Manager Maurice he didn't think he could use them or needed them and thanked Maurice for his time and hung up the telephone.¹²

Electrician Johnson testified that at the jobsite on May 17, Foreman Griffin told him he was going to hire two electricians that had applied for work but when he was talking with them, he found out they were Farley's representatives and upon learning that he just told them to forget it, that he didn't want anything to do with the Union.

C. Others Seeking Employment

Electricians Gregory Davis and Richard Smith testified they went to the Company's Lowes Superstore site on May 19 seeking employment. Smith testified they asked Foreman Griffin if the Company was hiring and Griffin told them "No, we're about to wrap the job up. We don't need anyone." Smith asked if he was taking applications and Griffin said no. Smith said as they were walking away, Foreman Griffin asked, "You don't belong to any of them Unions or nothing like that, do you?" Davis told Griffin, "No, I'm not with the Union" and asked "do you have to have a Union card to work on this project." Foreman Griffin said no. Davis said they just wanted a job. Davis told Foreman Griffin he thought all of this "union stuff" was up north and Griffin responded it wasn't.

D. The Investigative Interviews

Electrician Johnson testified he was instructed to report to the Company's jobsite construction trailer on May 25. Upon his arrival, he was greeted by Office Manager/Trainee R. Mathis and Secretary Treasurer/Office Manager Wanda Mathis (W. Mathis). Introductions were made and R. Mathis asked Johnson if he objected to their conversation being recorded. Johnson did not object and R. Mathis began to question him. After some preliminary questions, Johnson was asked if he saw anything happen between Farley and Fore-

¹² Electrician James Edwards testified he was in Union Business Manager Maurice's office on the morning in question and overheard Maurice's portion of the conversation. Edwards corroborated Maurice's testimony.

man Griffin or overheard any exchanges between the two. Johnson told the Mathises the only thing he heard was Farley saying on May 14 he was leaving because of the Company's unfair labor practices. Johnson told the Mathises Foreman Griffin asked Farley what he meant and Farley told him the Company was engaging in unfair labor practices. R. Mathis asked Johnson if Foreman Griffin treated Farley any differently because he was a union member. Johnson said he did not know. R. Mathis asked Johnson if he knew Gary Maurice and/or Richard Brooks. Johnson told the Mathises he had heard of them but had not seen them at the jobsite and added they did not work for the Company. Johnson testified the interview ended shortly thereafter.

E. Foreman Griffin's Account of the Events and Related Matters

Foreman Griffin testified he staffed the Lowes Superstore jobsite, in keeping with the Company's normal practice, by hiring only temporary employees.¹³ Foreman Griffin said he told all applicants the Lowes Superstore project would take 7 to 8 weeks—"a real rush project"—of 12-hour days, 6 days per week.

Griffin testified he had already hired all the employees he needed prior to Farley's seeking employment.¹⁴ Griffin said an employee quit and as a result he contacted Farley who was the last person hired for the Lowes Superstore project.

Foreman Griffin said he learned "several weeks" after Farley started working that he was a union sympathizer. Griffin said he heard Farley talking "the benefits of the union" as the employees were taking a break near his construction site trailer.¹⁵ Foreman Griffin denied asking Farley about the Union or telling Farley he was interested in the Union. Griffin denied telling Farley the Company was small and would never go union or would get rid of everyone involved with the Union. Griffin specifically denied ever threatening to fire anyone because of the Union.

Foreman Griffin testified Farley was utilized as needed at the worksite and denied ever at any time setting or establishing work goals for Farley. Foreman Griffin stated that on an occasion Outside Foreman Rick Sheets needed help installing underground electrical conduit. According to Griffin, Farley was at the time working outside at the front of the building so he assigned Farley to assist Outside Foreman Sheets.¹⁶

Outside Foreman Sheets testified he, on one occasion, asked Foreman Griffin for help because he "had a considerable amount of ditches opened up" and they were "calling for rain" and he needed to have the wire placed in the ground and the ditches covered. Sheets stated Farley helped him clean ditches and tamp dirt and that he seemed "tickled

to death to get out of the building." Outside Foreman Sheets acknowledged there "ain't nothing easy" about ditch work.

Foreman Griffin specifically denied referring to Farley as "union" or saying to electrician Adams that he had "union sweating like a bull."¹⁷

Foreman Griffin testified that on May 13, as he was walking around the project, he saw Farley "coming toward me with all of his tools and his tool pouch." Griffin testified Farley told him "this is an unfair labor act strike." Griffin asked what that meant and Farley responded "I just told you." According to Griffin, Farley then went to each employee asking them something and then exited the premises. Griffin said he "assumed" Farley had quit since he walked off the job.

Foreman Griffin testified he observed Farley and another individual the following day, May 14, "up at the road" with "signs" saying the employees were on strike. Griffin drove to where they were and "gave Mr. Farley his paycheck and told him he was no longer needed as a Mathis employee." Farley responded he was still an employee and Foreman Griffin told him "he was no longer needed, that the job was winding down."¹⁸

Office Manager W. Mathis testified Farley was terminated because he "took his tools and walked off the job."

Foreman Griffin recalled that two individuals came to the jobsite seeking employment after the job had been fully staffed. Griffin allowed the two to fill out applications and instructed them to place the applications in his truck. Griffin acknowledged he told the two individuals "jokingly" that they "probably" were overqualified for work on this particular job.

Foreman Griffin denied ever (and specifically on May 17) telephoning Union Business Manager Maurice and/or offering him a job and later retracting the offer.

F. R. Mathis' and W. Mathis' Accounts of Their Investigative Interviews

Office Manager W. Mathis testified that when the Company received the unfair labor practice charges herein, "it stunned" her because she didn't know the persons named in the charges except that Farley had been hired as a temporary employee. She said she didn't understand what was going on or what constituted unfair labor acts. W. Mathis testified her daughter, a recent graduate of Appalachian State University (Boone, North Carolina) mentioned she had recently taken a labor law class but had not studied "dealing with these type things." R. Mathis suggested to her mother that she call her labor law professor and see what he had to say about their situation. R. Mathis' professor told her to contact the Board and find out exactly what the allegations were against the Company and to then investigate and determine what the facts were. Both W. Mathis and R. Mathis testified they invited the Lowes Superstore site employees, one at a time, into the Company's construction trailer and questioned them

¹³ The temporary work force at this jobsite consisted of Samuel Johnson (hired 3-18-93 Johnson had been hired on 6-24-92 at a different location but, according to Foreman Griffin, new applications are required at each jobsite), Terry Custer (hired 3-17-93), Steve Capps (hired 3-17-93), Michael Cantor (hired 3-17-93), Charles Adams (hired 3-18-93), and Kim Farley (hired 4-14-93).

¹⁴ Griffin said that when Farley filled out his application, he indicated he was unemployed and really needed a job.

¹⁵ It is undisputed that for approximately 2 weeks Farley left his union book in the Company's construction trailer "so everyone could see it."

¹⁶ Foreman Griffin specifically denied assigning more onerous work to Farley for unlawful reasons.

¹⁷ Foreman Griffin also denied asking Adams if Farley had been talking union or had asked him to sign a union card. Griffin further denied telling Adams he didn't need any of this, that he could fire everyone or that Farley would never work for him again.

¹⁸ Foreman Griffin denied threatening Farley with arrest or telling anyone Farley had been fired or would never work for the Company again. Griffin also denied asking employees if they wished to join Farley on the picket line.

about the allegations. According to W. Mathis, the purpose was “to find out if possibly Mike Griffin had mistreated someone on the job.” Each of the interviews were, with the interviewees’ consent, tape recorded. Both R. Mathis and W. Mathis denied asking any of the employees about their union activities or if they were for or against the Union or what the Union was doing at the Company.

IV. RESOLUTIONS, ANALYSIS, AND CONCLUSIONS

A. Credibility Resolutions

In deciding credibility conflicts between Foreman Griffin and certain other witnesses, I note Griffin seemed very uncomfortable, nervous, and ill at ease while testifying. I’m persuaded Griffin’s above-described demeanor resulted from his inability or unwillingness to relate facts as he knew them to be. In addition, I note that for me to credit Griffin’s testimony, I would have to discredit a number of other witnesses. While truth is not determined by the number of witnesses testifying to a particular point, it is a fact that dictates careful scrutiny of the refuted one’s testimony. In order to credit Foreman Griffin’s testimony related, for example, to whether he placed a telephone call to Union Business Manager Maurice on May 17, I would not only have to discredit Maurice, but I would have to disregard the testimony of electrician James Edwards who said he overheard Maurice’s portion of the telephone call. In order to credit Foreman Griffin’s testimony that he did not refer to Farley as “his Union man” I would have to discredit the testimony of electrician Adams that Griffin did make that and other similar comments. Furthermore to credit Foreman Griffin’s testimony, I would have to discredit Farley who impressed me as a truthful witness. Farley testified in a calm, somewhat relaxed, and articulate manner. Farley’s testimony was corroborated in part by that of union member London with reference to what occurred on the picket line on May 14. To credit Foreman Griffin’s testimony, I would have to discredit electrician Johnson’s testimony that Griffin asked he and electrician Adams if they wanted to join Farley on the picket line. I would also have to discredit Adams’ testimony, which Foreman Griffin specifically denied, that Griffin said Farley would never work for him on any of his jobs again and that Lowes’ attorneys would have all of those on the picket line put in jail. As these limited examples illustrate, I find the evidence overwhelming that Foreman Griffin’s testimony cannot be relied on at any point where it is contradicted by others. Accordingly, I discredit his contradicted testimony.

I do not view W. Mathis’ and R. Mathis’ testimony as being in conflict with other witnesses except to the extent that Wanda Mathis asserts Farley was discharged because he “took his tools and walked off the job.” I am persuaded the record evidence establishes otherwise.

B. Conclusions on the 8(a)(1) Allegations

1. Interrogation and threats of jobsite closure and discharge

It is alleged that Foreman Griffin unlawfully interrogated employees on or about April 20, May 13, and May 19, and that W. Mathis and R. Mathis did so on or about May 25.

In deciding whether the Company’s representatives unlawfully interrogated its employees, I shall be governed by the

Board’s decision in *Rossmore House*, 269 NLRB 1176 (1984), enf’d. sub nom. *Hotel & Restaurant Employees v. NLRB*, 760 F.2d 1006 (9th Cir. 1985). In *Rossmore House*, the Board held the lawfulness of questioning by employer agents about union sympathies and activities turns on the question of whether “under all the circumstances, the interrogation reasonably tends to restrain or interfere with the employees in the exercise of rights guaranteed them by the Act.” The Board in *Rossmore House* noted the *Bourne*¹⁹ test was helpful in making such an analysis. The *Bourne* test factors are as follows:

1. The background, i.e., is there a history of employer hostility and discrimination?
2. The nature of the information sought, e.g., did the interrogator appear to be seeking information on which to base taking action against individual employees?
3. The identity of the questioner, i.e., how high was he in the Company’s hierarchy?
4. Place and method of interrogation, e.g., was employee called from work to the boss’s office? Was there an atmosphere of “unnatural formality?”
5. Truthfulness of the reply.²⁰

On April 20, the credited testimony establishes Farley spoke with certain employees about the Union at the evening break. On that occasion, Foreman Griffin asked Farley to tell him all about the Union and asked “You’re in it, right?” Farley explained what he perceived the benefits of unionization to be. Foreman Griffin told Farley and the other employees it “sounded good” but the Company would get rid of every one of them and asked where they would work then.

With respect to the April 20 encounter, I note first that Foreman Griffin is the company representative in charge of the worksite. He was the one who hired and fired employees. His inquiry as to whether Farley was with or for the Union was coupled with other unlawful comments. Accordingly, I find the Company, through Foreman Griffin, unlawfully interrogated Farley on April 20. I also conclude Foreman Griffin’s comments constituted threats to close the jobsite and/or discharge employees based on union considerations. Such violates Section 8(a)(1) of the Act and I so find. See, e.g. *Hall Industries*, 293 NLRB 785, 790 (1989).

Electrician Adams credibly testified that Foreman Griffin on May 13 asked him in the blueprint room if Farley had been talking union and who had signed union authorization cards. Before Adams could even answer Foreman Griffin stated “he didn’t need any of this, that he could fire everybody on the job and replace them.” Again, no legally justifiable reason was advanced as to why Foreman Griffin needed to know if Farley had been talking union or who had signed authorization cards for the Union. Such constitutes unlawful interrogation and I so find. This is particularly so when it is noted that Foreman Griffin also unlawfully threatened to fire and/or replace anyone involved or associating with the Union.

When electricians Davis and Smith sought employment at the jobsite on May 19, Foreman Griffin, after indicating the

¹⁹ *Bourne Co. v. NLRB*, 332 F.2d 47 (2d Cir. 1964).

²⁰ The *Bourne* test has been cited with approval by various circuits. For a partial listing of those circuits, see *Teamsters Local 633 v. NLRB*, 509 F.2d 490 fn. 15 (D.C. Cir. 1974).

Company did not need employees, asked whether they belonged to a union. Again, this high-level company representative advanced no valid justification for his inquiry and his questioning job applicants about their union sympathies violates Section 8(a)(1) of the Act and I so find. See, e.g., *Century Wine & Spirits*, 304 NLRB 338 fn. 2 (1991).

Before addressing W. Mathis' and R. Mathis' admitted questioning of employees on or about May 25, it is necessary to decide whether R. Mathis is an agent of the Company within the meaning of the Act. Office Manager and Secretary-Treasurer W. Mathis is an admitted supervisor and agent of the Company. R. Mathis is the daughter of W. Mathis and Company President M. Mathis. W. Mathis was the present at all times during which R. Mathis questioned employees on May 25. W. Mathis never disavowed R. Mathis' actual or apparent authority and even acted on her advice in questioning the employees. Accordingly, the employees, electrician Johnson in particular, would reasonably believe that R. Mathis was speaking and acting on behalf of management. I am persuaded R. Mathis acted with actual or at the very least apparent authority such as to bind the Company herein. See, e.g., *Great American Products*, 312 NLRB 962 (1993).

The Mathises questioned the interviewees (electrician Johnson in particular) concerning what Foreman Griffin and electrician Farley had said or done at the jobsite. Johnson's answers touched, for example, upon Farley's speaking about unfair labor practices at the Company. The Mathises inquired if Johnson thought Foreman Griffin had treated Farley differently because he was a union member. Any answer Johnson may have given to that line of questioning would have had a tendency to reveal Johnson's union sentiments. The only consent Johnson gave the Mathises at the beginning of the interview was that the interview could be recorded. The Board has consistently required an employer to advise each employee it interviews in the investigation of unfair labor practice allegations or in preparation for Board proceedings that they have three specific rights. See *Johnnie's Poultry Co.*, 146 NLRB 770 (1964), enf. denied 344 F.2d 617 (8th Cir. 1965). See also *Bill Scott Oldsmobile*, 282 NLRB 1073 (1987). The three advisories an employer is required to make are (1) instruct each employee of the purpose of the questioning; (2) ensure the employee that no reprisals will be taken against them; and, (3) obtain the employee's permission on a voluntary basis to conduct the interview. These minimum safeguards were not followed by the Mathises when they interviewed the employees to ascertain what the unfair labor practice charges were all about. The Mathises did not indicate to Johnson, or the others, that they did not have to participate in the interview if they did not wish to. Most importantly, the interviewees were given no assurances against reprisals. The questioning violated Section 8(a)(1) of the Act, and I so find.

2. Job quotas and threats of more onerous working conditions

It is alleged that Foreman Griffin implemented job quotas to discourage employees from engaging in union activities and threatened employees with more onerous working conditions because of their union activities.

It is clear that in late April, Foreman Griffin questioned Farley about the number of "rows of lights" he had installed

that day. Foreman Griffin told Farley he had placed electrician Rhodes alongside him (Farley) to see how many rows he installed daily. Foreman Griffin even told Farley he should be able to install 20 canopy lights per day. Farley credibly testified that prior to that time he had never been asked to do a certain number of lights per day or to meet any particular quotas. Farley even protested that he thought he had an understanding with Foreman Griffin that it would not be a problem by his being for the Union. The Company offered no justification or explanation for its above-noted actions toward Farley. Accordingly, I conclude, as alleged in the complaint, that the Company violated Section 8(a)(1) of the Act by implementing job quotas for Farley in order to discourage him from activities on behalf of the Union. I also find the Company threatened its employees with more onerous working conditions when Foreman Griffin, while speaking with electrician Adams, referred to Farley as "Union," "his bull," and "his Union man." These comments taken in conjunction with Griffin's further statement to Adams that he had assigned certain work to Farley and "had Union sweating like a bull" could reasonably cause Adams to infer and conclude that if he supported the Union, he would be subjected to like treatment by Foreman Griffin.

3. Threats of unspecified reprisals and arrest

Electrician Adams credibly testified that Foreman Griffin stated in a loud and angry tone after Farley and others had started picketing on May 14 that if anyone else wanted to go out and join them they were welcome but that Lowes would bring in their attorneys and have all of them put in jail.²¹ Griffin's comment constitutes an unlawful threat to have employees arrested to discourage them from union activities and I so find.

I am persuaded the evidence fails to establish a threat of unspecified reprisals if employees engaged in union activities. Accordingly, I shall dismiss that portion of the complaint.

C. Analysis of Company Motivation

In *Wright Line*, 251 NLRB 1083 (1980), enf. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982); approved in *NLRB v. Transportation Management Corp.*, 462 U.S. 393 (1983), the Board set forth its causation test for cases alleging violations of the Act that turn on employer motive. First, the Government must make a prima facie showing sufficient to support the inference that protected conduct was a motivating factor in the employer's decision. Once this is established, the burden shifts to the employer to demonstrate that it would have taken the same action even in the absence of the protected conduct. An employer can not simply present a legitimate reason for its actions but must persuade by a preponderance of the evidence that the same action would have taken place even in the absence of protected activity. The classic elements commonly required to make out a prima facie case of union discriminatory motivation under Section 8(a)(3) of the Act are union activity, employer knowledge, timing, and employer animus.

²¹ I note Farley also credibly testified Foreman Griffin told him, while he was on the picket line, that he was fired and if he put one foot on the Lowes Superstore site property, he would have him arrested.

D. The More Onerous Working Conditions

It is undisputed that Farley was a strong union supporter and that the Company, Foreman Griffin in particular, knew of Farley's union sentiments. For example, Farley left his union book in the Company's construction site trailer for 2 weeks so "everybody could see it." Farley spoke with Foreman Griffin about the Union and Griffin questioned Farley and others about the Union and Farley's activities on behalf of the Union. Foreman Griffin even referred to Farley as "his bull" and "his union man." Shortly after the Company learned of Farley's union sentiments, Foreman Griffin, for the first time on May 6, and thereafter on May 7 and 8 assigned Farley outside work clearing ditches and tamping soil onto conduit. This type work was normally performed by apprentices and laborers. Outside Foreman Sheets readily acknowledged the work was "hard, physical work" with "nothing easy about it." Foreman Griffin's motivation for assigning Farley the outside work is revealed, at least in part, by his comments to electrician Adams. Adams credibly testified that when Farley was assigned to clean ditches and tamp soil in May, Foreman Griffin told him concerning the assignment "he had union sweating like a bull."²² The Company advanced no valid or justifiable reason and/or explanation for its selection of Farley to perform this outside work that was normally assigned to apprentices or laborers. Stated differently, the Company failed to demonstrate it would have assigned electrician Farley the outside work in question even in the absence of any union activities on his part. Accordingly, I find, as alleged in the complaint, the Company assigned Farley more onerous work on May 6, 7, and 8 because of his union activities and as such violated Section 8(a)(3) and (1) of the Act.

E. Farley's May 14 Discharge

Examining the instant facts in light of the *Wright Line* principles outlined earlier, I am persuaded the Government established a prima facie case related to Farley's discharge. As noted above, Farley was the moving force for the Union at the Company. As also noted above, the Company was fully aware of Farley's union sentiments. The Company, through Foreman Griffin, subjected Farley to various unfair labor practices by questioning him about the Union and threatening that the jobsite would be closed and the employees discharged as a result of their union activities. As set forth above, the Company gave Farley more onerous work assignments because of his support for the Union. Farley, in response to actions taken against him and other employees, engaged in a strike to protest the Company's unlawful conduct. Farley was discharged for participating in that strike. Not only was Farley discharged for engaging in the strike, he was, in violation of the Act, threatened with arrest for doing so. I am fully persuaded the Company failed to demonstrate it would have discharged Farley in the absence of any protected conduct on his part. First, there is no showing that Farley was not a qualified electrician performing satisfactory work. Second, this was "a real rush project" that has not been completed at the time Farley was discharged. Third, the Company knew Farley had not voluntarily quit his em-

ployment but rather was engaging in a strike. Simply stated, Farley was discharged immediately after he commenced to engage in a strike to protest the Company's unfair labor practices. I reject the Company's contention that Farley, by taking his tools and walking off the job, voluntarily quit. I find the Company violated Section 8(a)(3) and (1) of the Act when on May 14, it discharged its employee Farley.

F. The Company's Refusal to Hire Maurice

It is undisputed that Union Business Manager Maurice and another electrician (Brooks) sought employment with the Company at the jobsite on May 13. The two, at their insistence, were allowed to fill out applications for employment even though it was made known to them the Company did not need additional employees at that time. It is likewise undisputed that Maurice and Brooks established their qualifications as electricians to the satisfaction of the Company. As a matter of fact, Foreman Griffin told the two they were overqualified for the work at the Lowes Superstore site. The credited testimony establishes that on May 17, Foreman Griffin telephoned Maurice and offered him employment commencing on May 18, and only withdrew the offer and instructed Maurice to forget all about the call after he became fully aware that Maurice was affiliated with the Union and was discharged employee Farley's union representative.

The Company failed to rebut the Government's prima facie case by showing it would not have hired Maurice even in the absence of any protected conduct.²³ The Company's contention that Union Business Manager Maurice was not a bona fide employee applicant does not withstand close scrutiny. First, Maurice was a qualified electrician as acknowledged by Foreman Griffin. Second, Maurice told Foreman Griffin he would perform whatever work the Company assigned him. The Board has made it clear that the term employee (or applicant for employment) includes paid union organizers. See, e.g., *Sunland Construction Co.*, 309 NLRB 1224 (1992). The Board in *Sunland Construction* went to great lengths to outline why an employer, such as the Company herein, may not refuse to hire qualified applicants simply because the applicants are paid full-time union organizers. The Board noted *only two* requirements, which are met herein, for an applicant to qualify as an employee. An applicant must be qualified for the position being filled and agree to perform assigned work for the wages offered. The Company's refusal to hire Union Business Manager Maurice, a qualified electrician, because he was an officer of the Union and/or because he was an employee's union representative violates Section 8(a)(3) and (1) of the Act, and I so find.²⁴

CONCLUSIONS OF LAW

1. Mathis Electric Co., Inc. is an employer within the meaning of Section 2(2) of the Act engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

²³ Brooks was not named in the complaint nor was any relief sought by the Government on his behalf.

²⁴ I have discredited Foreman Griffin's testimony that he never made any offer of employment to Maurice (and/or Brooks) and as such have rejected the Company's contention it would not have offered employment to anyone at the time in question because it was winding down its Lowes Superstore site project.

²² I reject Outside Foreman Sheets' testimony that Farley "acted" like he was "tickled to death" to be working outside the building.

2. Local Union 342, of the International Brotherhood of Electrical Workers, AFL-CIO, affiliated with International Brotherhood of Electrical Workers, AFL-CIO is a labor organization within the meaning of Section 2(5) of the Act.

3. By engaging in the following conduct, the Company violated Section 8(a)(1) of the Act.

(a) Interrogating its employees concerning their union activities,

(b) Threatening its employees with jobsite closure because of their union activities,

(c) Threatening its employees with discharge because of their union activities,

(d) Threatening its employees with more onerous working conditions because of their union activities,

(e) Threatening its employees with arrest to discourage their union activities, and

(f) Implementing job quotas to discourage its employees from engaging in union activities.

4. By assigning more onerous working conditions to its employee Kim Farley on May 6, 7, and 8, 1993, and by thereafter discharging him on May 14, 1993, because of his union, concerted, and protected activities, the Company engaged in unfair labor practices in violation of Section 8(a)(3) and (1) of the Act.

5. By failing and refusing to hire Gary Maurice on May 17, 1993, because of his union, concerted, and protected activities, the Company engaged in unfair labor practices in violation of Section 8(a)(3) and (1) of the Act.

6. The aforesaid unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found the Company has engaged in violations of Section 8(a)(1) and (3) of the Act, I shall recommend it be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

Having found that the Company discriminatorily discharged employee Kim Farley, I shall recommend he be made whole for any loss of earnings he may have suffered by reason of the discrimination against him, with interest. Backpay shall be computed in the manner prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).²⁵ The Government, citing *Dean General Contractors*, 285 NLRB 573 (1987), seeks to have Farley reinstated as part of any remedy herein. The Board in *Dean General Contractors* applied its traditional backpay and reinstatement remedy in a construction industry case. The Board recognized that employment patterns in the construction industry have unique characteristics and jobs are frequently of short duration but added that these general characteristics standing alone did not justify a departure from its traditional make-whole remedy prior to compliance. The Board's holding in *Dean General Contractors* does not preclude a finding at the trial stage of the proceedings that an employer would necessarily have severed all employment ties with an employee if the evidence, as is the case herein, warrants such a conclusion. I am persuaded reinstatement should not be or-

²⁵ Under *New Horizons*, interest is computed at the "short-term Federal rate" for the underpayment of taxes as set out in the 1986 amendments to 26 U.S.C. § 6621.

dered in the instant case because the evidence establishes employees were, and are, hired on a temporary basis at each jobsite with new applications required at each jobsite. In that regard, I note the personnel files for the electricians at the Company's Lowes Superstore site disclose all were temporary employees. Company Secretary/Treasurer W. Mathis testified all were temporary employees. Foreman Griffin testified, without contradiction, that he staffed this particular jobsite in keeping with the Company's normal practice by hiring employees on a temporary basis. The record reflects electrician Johnson was required to fill out a new application for employment at the jobsite in question even though he had made application and had worked for the Company sometime earlier (June 1992) at a different jobsite. Inasmuch as the evidence establishes the Company requires new applications at each jobsite, I shall not recommend that Farley be offered immediate and full reinstatement. I shall, rather, direct that the Company, upon application at any particular jobsite, accord Farley consideration for employment in a nondiscriminatory manner. The backpay period for Farley shall run from his unconditional offer to return to work (4:30 p.m. May 14, 1993) until the completion of the Lowes Superstore site project. I also recommend the Company be ordered to expunge from its files any reference to Farley's discharge and notify him in writing this has been done and that evidence of the unlawful actions will not be used as a basis for future personnel actions against him. Having found that the Company unlawfully refused to hire Gary Maurice on May 17, 1993, I shall recommend the Company be ordered to make him whole for any loss of earnings he may have suffered by reason of the discrimination against him with interest as outlined above.²⁶ The backpay period for Maurice shall run from May 17, 1993, until the Lowes Superstore site project was completed. Finally, I recommend the Company be ordered to post an appropriate notice to employees, copies of which are attached hereto as "Appendix" for a period of 60 days in order that employees may be apprised of their rights under the Act and the Company's obligation to remedy its unfair labor practices.

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended²⁷

ORDER

The Company, Mathis Electric Co., Inc., North Wilkesboro, North Carolina, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Interrogating its employees concerning their union activities.

(b) Threatening its employees with jobsite closure because of their union activities.

(c) Threatening its employees with discharge because of their union activities.

²⁶ For the reasons outlined with respect to Farley, I shall not recommend the Company be ordered to immediately hire Maurice but rather direct that upon application he be considered for employment in a nondiscriminatory manner.

²⁷ If no exceptions are filed as provided in Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

(d) Implementing job quotas to discourage its employees from engaging in union activities.

(e) Threatening employees with more onerous working conditions because of their union activities.

(f) Threatening its employees with arrest to discourage their union activities.

(g) Assigning more onerous working conditions to its employees because of their union activities.

(h) Discharging or otherwise discriminating against its employees because of their membership in or activities on behalf of the Union or because they engaged in other protected concerted activities.

(i) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Make Kim Farley and Gary Maurice whole for any loss of earnings and other benefits suffered as a result of the discrimination against them in the manner set forth in the remedy section of this decision, and expunge from Farley's work record any reference to his discharge.

(b) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, time cards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(c) Post at all of its jobsites in North Carolina copies of the attached notice marked "Appendix."²⁸ Copies of the notice, on forms provided by the Regional Director for Region 11, after being signed by the Company's authorized representative, shall be posted by the Company immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Company to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Notify the Regional Director for Region 11 in writing within 20 days from the date of this Order what steps the Company has taken to comply.

IT IS FURTHER ORDERED that the complaint be, and it hereby is, dismissed insofar as it alleges violations of the Act not specifically found.

²⁸ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

To organize

To form, join or assist any union

To bargain collectively through representatives of their own choice

To act together for other mutual aid and protection

To choose not to engage in any of these protected concerted activities.

WE WILL NOT interrogate our employees concerning their union activities.

WE WILL NOT threaten our employees with jobsite closure because of their union activities.

WE WILL NOT threaten our employees with discharge because of their union activities.

WE WILL NOT implement job quotas to discourage our employees from engaging in union activities.

WE WILL NOT threaten our employees with more onerous working conditions because of their union activities.

WE WILL NOT threaten our employees with arrest to discourage their union activities.

WE WILL NOT discharge employees or assign them more onerous work because of their union activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL make Kim Farley whole for any loss of earnings and other benefits suffered as a result of our having unlawfully discharged him on May 14, 1993, with interest.

WE WILL make Gary Maurice whole for any loss of earnings and other benefits suffered as a result of our unlawful refusal to hire him on May 17, 1993, with interest.

WE WILL notify Kim Farley, in writing, that we have removed from our files any reference to his discharge and that the discharge will not be used against him in any way.

MATHIS ELECTRIC CO., INC.